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LETTER DATED 9 JUNE 1992 FROM THE CHARGE D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF KUWAIT TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

I have the pleasure to transmit to you herewith the text of a letter dated 9 June 1992 addressed to you by the Deputy Prime Minister and Minister for Foreign Affairs of the State of Kuwait, Sheikh Salem Sabah al-Salem al-Sabah, in which he responds to the Iraqi allegations contained in document S/24044 of 1 June 1992.

I should be grateful if you would have the text of this letter and its annex circulated as a document of the Security Council.

(Signed) Mohammad Saad AL SALLAL
Chargé d'affaires a.i.

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Annex

Letter dated 9 June 1992 from the Deputy Prime Minister and Minister for Foreign Affairs of the State of Kuwait addressed to the Secretary-General

Kuwait has taken note of the letter dated 21 May 1992 addressed to you by the Minister for Foreign Affairs of Iraq concerning the decisions of the Iraq-Kuwait Boundary Demarcation Commission appointed by the Security Council.

The majority of countries in the world were surprised by that letter and by its contents. Kuwait, however, was not surprised, since the contents of the letter are in the long tradition of the practices of the Iraqi regime, which consists in challenging international legitimacy, persisting in its aggressive intentions, proclaiming its refusal and rejecting all agreements and conventions ratified by Iraq.

The letter from Iraq can be summed up in one sentence: Iraq refuses to recognize the catastrophe with all its consequences and all the misery which it has caused and the tragedy and damage which it has inflicted on Kuwait, on Iraq, on the Arab nation and on the whole world.

After the crime of the invasion, the adventure of the war, the crushing defeat, the sacrifices and loss of human life and the hostility of the whole world, Iraq brings us back to the starting-point. In its letter, it closes its eyes and stops its ears to the reality which has been recognized by all the States of the world and all international institutions and which it has endeavoured to disregard by resorting to invasion, violence and the law of the jungle and by trying to impose its point of view by force of arms.

This reality is based on the fact that Kuwait is an independent sovereign State, a Member of the United Nations and a member of the League of Arab States and of other international, regional and Arab organizations, that it has its own historical and legal existence, that it does not depend on any State or part of a State, and that it has diplomatic representation to various States throughout the world, including Iraq.

Kuwait's boundaries are described in the agreements which Iraq signed and recognized and which it deposited with the League of Nations with a view to confirming that those bundaries were settled and agreed. That was, moreover, a precondition for its membership in that organization, which refused to admit to membership States which disputed their boundaries with their neighbours. The course of the boundary was reaffirmed in the Agreed Minutes signed in 1963 by the two parties, Kuwait and Iraq. In that text it is stated that Iraq recognizes the independence and boundaries of Kuwait. This instrument was deposited with the United Nations, and Iraq accepted it once again in a letter dated 11 April 1991 (S/22480) in which the Iraqi National Assembly announced that it accepted Security Council resolution 687 (1991).

The boundaries between Kuwait and Iraq are delimited precisely. The problem arises from the fact that Iraq has constantly delayed the demarcation of the boundary and the installation of frontier posts, indulging in provocatory and aggressive manoeuvres and thereby going back on its promises.

Iraq has taken no account of the agreements reached and of this reality and has committed a treacherous act of aggression against Kuwait, its peaceful neighbour. It has invoked pretexts which the world deems futile and grasped at illusions, challenging the international community and rejecting the appeals to withdraw and to respect international legitimacy. This refusal has cost Iraq a crushing defeat and enormous losses in terms of property and human life and forced it to accept unconditionally the Security Council resolutions which have restored legitimacy and reminded Iraq of its obligation to respect the instruments which it signed on 4 October 1963 when it freely and of its own will recognized Kuwait, its independence and its boundaries as specified in the instrument deposited with the United Nations as Treaty No. 7063. What is more, Iraq has accepted all the Security Council resolutions and the Iraqi National Assembly has ratified them, a step which the world had hoped would mark the end of the tragedy and the beginning of a new era of peace and cooperation in the region.

The letter from the Minister for Foreign Affairs of Iraq, which would appear to express Iraq's objection to the decisions of the Boundary Demarcation Commission, in reality, in the light of both the wording and the content, constitutes a further blatant proclamation of Iraq's refusal to accept international legitimacy and decisions and its rejection of all previous agreements, as well as the reaffirmation of the claims which served as a pretext for the invasion. In this letter, Iraq repeats and implicitly reiterates its threats when it states that the decision of the Boundary Demarcation Commission is a time bomb which may explode at any moment.

Although the letter from Iraq is nothing but a repetition of claims which consist in denying facts which are as clear as daylight, we will endeavour below to deal, in all objectivity and simplicity, with some of the points which the Minister for Foreign Affairs of Iraq touched upon in his letter in order to show that Kuwait is constantly guided by reason and justice, that it can draw a lesson from the catastrophe and from the past in order to turn a new page and restore peace and security in the world and unity of direction to the region and that it rejects any claim to domination and aggression in a world which can find salvation only through fraternity, cooperation and joint action in mutual respect and in relations governed by legitimacy and principles.

I. In his letter, the Minister for Foreign Affairs of Iraq starts by stating that the fact that, in delimiting the boundary between Iraq and Kuwait, the Boundary Demarcation Commission established by the Security Council had to take as a basis the agreement signed between the two countries on 4 October 1963 prejudged the demarcation of the boundary with Kuwait instead of leaving the two countries to settle their differences through negotiations. In so doing, he ignores the long history of persistent attempts

and efforts by Kuwait, using all means, to persuade Iraq to delimit the boundary (attempts which were met with repeated delays, provocations and acts of aggression at the frontier until the very day before Iraq's treacherous act of aggression). In order to settle this dispute, Kuwait had proposed recourse to arbitration by a neutral commission of the League of Arab States. Iraq reacted the following day by its infamous invasion.

Has Iraq forgotten that it was its treacherous act of aggression and its disregard of international legitimacy which placed this problem outside the regional context, thus moving its obligation to respect such legitimacy to an international context? Iraq having rejected all acceptable means of resolving the boundary dispute thus created, it was essential that the United Nations should intervene and take charge.

Iraq proclaimed its opposition at the time of the adoption of Security Council resolution 687 (1991) by pointing out that questions relating to boundaries between States, including their delimitation and demarcation, were not within the competence of the Security Council. In view of the invasion of Kuwait by Iraq and the effects of that invasion on the security and stability of the region - questions which are within the competence of the Security Council, which is responsible for monitoring and eliminating hotbeds of tension in the world and for taking the necessary measures to avert them - the Council, which, in paragraph 4 of resolution 687 (1991), had decided to guarantee the inviolability of the international boundary between Kuwait and Iraq, nevertheless felt that it should intervene to delimit the boundary in order to settle the problem once and for all.

Iraq accepted Security Council resolution 687 (1991), which was ratified by its legislative and executive authorities, as evidenced in United Nations documents. By rejecting the foundation which served as a basis for the work of the Boundary Demarcation Commission, Iraq has gone back on its unconditional acceptance of the aforementioned Security Council resolution.

It should be pointed out that resolution 687 (1991), which, inter alia, provided for the establishment of the Boundary Demarcation Commission, has priority over all other relevant resolutions since in paragraph 1 it confirms the provisions of all other previous resolutions "except as expressly changed below to achieve the goals of this resolution".

II. Iraq has attempted to justify its opposition to and its rejection of international intervention in the demarcation of the boundary by referring in the note to its supposed attempts to convince Kuwait to delimit the boundary and its "sincere" desire to find a solution to the problem. According to Iraq, Kuwait "did not respond".

The time has come to shed full light on the historical events so that future generations will know what this "sincere desire" to resolve the boundary question really was.

At the end of 1971, Saddam Hussein declared that, if Kuwait wanted to put an end to the boundary problem, it should take initiatives, both at the national level and at the level of the Arab nation. The Minister for Foreign Affairs of Iraq, Murtada Sa'id Abd al-Baqi, explained, during a visit to Kuwait at the beginning of May 1972, what form those initiatives by the Government of Kuwait should take. They can be summarized as follows:

(a) Complete political coordination between Kuwait and Iraq;

(b) Investment of Kuwaiti capital in Iraq specifically;

(c) Authorization for the entry of Iraqi workers into Kuwait;

(d) Association of Kuwait with Iraqi defence planning;

(e) Creation in Kuwait of strategic zones reserved for Iraq, including the necessary access to the sea for the latter.

Earlier, Taha al-Jazrawi, Minister of Industry and member of the Revolution Command Council, had informed Sheikh Sabah al-Ahmed al-Sabah, Minister for Foreign Affairs of Kuwait, during talks which they held at Baghdad to study the boundary question, that the two Kuwaiti islands of Warbah and Bubiyan were of particular importance to Iraq, as a Gulf country. He had asked Kuwait to renounce them.

During that same visit, the Kuwaiti delegation, headed by Sheikh Sabah al-Ahmed, met with Saddam Hussein, at that time Vice-President of the Republic, who reiterated that demand.

Kuwait's reply was categorical: it was out of the question that it should renounce any part of its territory; that was inconceivable for any Kuwaiti.

That was the kind of initiative at the national level and at the level of the Arab nation which Iraq took to convince Kuwait to delimit the boundary and which affected Kuwait's homeland, sovereignty, will, territory and freedom and the management of its resources.

III. Once again, the Iraqi regime reiterates its repeated attempts, in the aforementioned note, and endeavours by all means to obstruct the delimitation of the boundary. It began by refusing to allow the Security Council to intervene in the delimitation, as we have indicated. It cast suspicion on the Commission and the choice of its members, asking to be allowed to have a role in that choice. But it is not for Iraq alone, but for Kuwait also to have such a role, since, under the mandate assigned to it, the Commission is a technical commission not an arbitration commission, nor a political commission called upon to decide on the course of the boundary or to make any modifications thereto. This is not within its competence since the Security Council, in defining the boundary between Kuwait and Iraq, has taken as a basis the text of the 1963 Agreed Minutes signed between the two countries.

In accordance with the functions entrusted to it, the Commission is confined to delimiting on the ground the boundaries specified in the said Agreed Minutes and to placing the border posts required for that purpose. Similarly, the choice of independent technical experts is the responsibility of the Secretary-General of the United Nations, who is responsible for carrying out the mission entrusted to him.

IV. The letter states that the Security Council resolution on the Boundary Demarcation Commission is unprecedented in the international Organization. That allegation is totally inaccurate and contrary to common knowledge, inasmuch as the League of Nations established similar commissions to demarcate the boundaries under its supervision in order to resolve the border conflict issues in certain parts of the world, and they arrived at the Treaties of Versailles (demarcation of the boundary between Poland and Czechoslovakia), Saint-Germain (between Austria and Hungary), Neuilly (between Bulgaria and Yugoslavia) and Trianon (between Hungary and Romania).

The casting of doubts in the letter on the Commission and its members is the procedure and fashion of this regime. It has cast doubts on the United Nations and the Security Council and has described them as tools in the hands of others seeking to injure it. That is an extension of its position of hostility to the world and its States whenever they stand in the way of its ambitions and its will to impose wrong by force and falsification. In particular, during the work of the Commission, Iraq has not registered one single objection against any of the independent experts there or cited a single fact indicating bias on the part of any of them.

V. By way of of seeking flimsy justifications, the letter objects to what was contained in the draft report of the Secretary-General of the United Nations, to the effect that the Commission could utilize appropriate technology relevant to the demarcation of the boundary and considers that vague, undetermined and requiring elucidation. The technology used in boundary demarcation consists of technical operations with well-known methods known to all specialists in this field, so that the Secretary-General's reference to it is surprising. The Commission has utilized this technology within sight of the Iraqi side and without any objection from it. The New Zealand/Swedish survey team carried out field work that laid the foundation for the vertical photographic maps of the Iraq-Kuwait border area. Four stations were established to supply data for survey control, as well as 25 major control stations at intervals of approximately 15 to 25 kilometres along the border. Its observation activity was conducted with Doppler and GPS equipment. The Swedish team carried out aerial photography operations using a commando jet aircraft specially equipped for this purpose from two main altitudes. Photographs were taken from each altitude, and picture control consisted of a network comprising more than 200 control stations with pre-processing of signals.

As a result of these operations, 29 vertical photographic maps were produced on the 1:25000 scale with elevation contours at 5-metre intervals. The map projection used in the preparation of the vertical photographic maps was the Universal Transverse Mercator (UTM) Projection, with an extension of 38 to the East to cover the boundary area fully.

Work was begun on the preparation of additional separate maps for the western part of the boundary known as Wadi al-Batin, and approximately 1,430 survey photographs were taken over a distance of 3.5 kilometres at intervals of 100 metres along the wadi. These pictures were used to determine the nearest line of a point in the wadi. Numerical ground samples were also established to plot the contours at 2 metres' elevation. In addition, three-dimensional pictures were used with the help of computers to interpret the data.

We should ask ourselves questions about the nature of the details and explanations sought by Iraq following this detailed exposition on the technology used in the Commission's work that we have summarized briefly here and which have been published at greater length by the Commission.

It is amazing that Iraq did not respond to the Commission's request to supply any information available to it relating to its mission and contented itself with promises. It promised to furnish documents and admits in its letter that it was unable to furnish them during the Commission's meetings. It blames the Commission and the United Nations for not waiting until Iraq had done so. Of course, it did not do so in spite of the lapse of more than a year between the first and the fifth meetings of the Commission, in which it announced that it had demarcated the land boundary.

Nevertheless, Iraq describes the work of the Commission as, in its opinion, unacceptably hasty, although until the last meeting of the Commission it was unable to give a firm deadline for the handing over of what it claimed it had. How much time was Iraq proposing that the United Nations, the Security Council and the issue of establishing security in this part of the world should wait until Iraq was ready to furnish its documents, which, it knows very well, as everyone knows, do not exist and are merely, as we have said, an extension of attempts in past decades to prevaricate in the demarcation of the boundary so that it should become a point of dissension to be exploited for obtaining gains and obfuscating the situation and the facts?

VI. The note reproaches the representative of Kuwait with having put leading questions to the independent experts. We do not understand what prevented the representative of Iraq from putting questions since he is a member of the Commission and has every right to ask for explanations and to state his views.

VII. The note of the Iraqi regime rejects what the Commission took as a basis in its interpretation of the course of the boundary south of Safwan, on the grounds that the Commission relied on cartographic considerations (although that was the very nature of the Commission's work), on documents and letters which had been exchanged between Britain and Iraq and on Iraqi maps! We do not understand why the Boundary Demarcation Commission is reproached for that.

The note justifies this objection by arguing that at that time Britain was the dominant colonial Power in the region and that the Iraqi maps on which the Commission had relied had not at the time they were drawn up been intended to demarcate the frontier.

These are objections which any fair and impartial person would reject. In the Agreed Minutes signed in 1963, after the end of British domination and Britain's withdrawal, at a time when Iraqi national rule had been established, Iraq explicitly declared, in appending its signature to paragraph 1, that "the Republic of Iraq recognized the independence and complete sovereignty of the State of Kuwait with its boundaries as specified in the letter of the Prime Minister of Iraq dated 21 July 1932 which was accepted by the ruler of Kuwait in his letter dated 10 August 1932".

Where then are the British pressure and the imperialist and hegemonistic force which would justify a disavowal of this recognition of the boundary line by Iraq? In reality, it is nothing but the greed of the current Iraqi regime, which has been confirmed by its treacherous invasion and its designs on the territory, population and existence of Kuwait!

The Iraqi regime's objection to the Commission's reliance on Iraqi maps is surprising. Its allegation that they are maps not drawn up for demarcation purposes is even more surprising. Surely the boundary entered on maps issued by a State are a decisive proof of its borders with its neighbours, whether they be utilized for demarcation or for other purposes.

VIII. The letter mentions that Kuwait moved the boundary more than 70 kilometres, with military forces and oil installations, basing its allegation on the fact that Kuwaiti passports had been stamped at the Mitla' checkpoint but were later stamped at Safwan, at a distance of 70 kilometres. We know of no relation between a passport checkpoint and the choice of its location as an international boundary.

In this context of falsification of the facts, Kuwait has travel documents that register the checkpoint as the town of Zubayr. Does that mean that Kuwait claims the extension of its frontier to Zubayr?

It is known in all States of the world that the checkpoint for departure may be at an airport located in the area of the city rather than at the frontier point.

The purpose of the Iraqi letter is clearly renunciation of the boundary-line indicated in the agreements signed by Iraq and a shift to other evidence that is totally unreasonable.

IX. The letter objects to two things on which the work of the Boundary Demarcation Commission is based. The first is its reliance on survey evidence alone and adoption of the geographical coordinates of longitude and latitude, without leaving scope for the furnishing of other evidence derived from appropriate materials (although Iraq does not specify the nature of these appropriate materials). The Boundary Demarcation Commission, in ensuring that the boundary corresponds to reality, must rely essentially on survey evidence, provided that the boundary is agreed previously, because the basis of the operation is congruence, not adjustment.

However, it is clear that the Iraqi letter wishes to distance the Commission from the task of demarcation in order to enter into the labyrinth of demarcating the boundary on the basis of the Iraqi regime's rejection of the boundary contained in the agreements, to embark on the seas of disputation where all parties will founder and to make a fresh start on the course towards a boundary demarcation agreement that will, of course, be rejected by the Security Council, the United Nations and the Commission, which proceed from international legitimacy and the binding agreements concluded.

The second thing to which the letter objects is that the Commission adopted the British map from the appropriate materials that it took as the basis for its work of demarcation. The letter proceeds to reject any boundary demarcation carried out by the British, even though Iraq is the one that officially endorsed it with the signatures of its presidents and ministers in the exchange of letters of 1932 and the Agreed Minutes of 1963, as we have explained. Nevertheless, the British map was not regarded as the basis for the Commission's work but as one of the appropriate materials, to be necessarily supported by other materials and was accordingly not used for some purposes.

We do not know why the Iraqi regime rejected the Iraqi maps issued by its Government, the boundary demarcation recognized by Iraq's agreements and the maps that were available at the time of the boundary demarcation and, rather than submit fresh documents or proofs, produced promises and prevarications about submitting them. On what can any agency undertaking the demarcation of the boundary rely, unless all that was deliberate hamstringing designed to place the international effort aimed at ending the problem in a vacuum, leaving the question of stability, security and peace in the region dependent on whoever possesses weapons and a will to aggression.

X. The letter objects to the fact that the representative of Kuwait accompanied the two independent experts on their investigations of the Safwan area, even though the representative of Kuwait accompanied them in accordance with the decision of the Commission, of which he is a member, and he only entered the border area under the auspices of the United Nations, within the framework of which the Commission operates.

In this context, the letter accuses Commission members of lack of neutrality, an accusation not based on any evidence. On the contrary, it is a random judgement intended to prejudice the Commission's work. In such matters, judgements should be based on firm evidence stemming from reason and credibility.

The Commission's decisions were not biased in favour of Kuwait as the Iraqi letter claims. The Commission decided to deprive Kuwait of its territorial waters in Khawr al-Zubayr, which means Iraq's full utilization of that channel. The Commission's decision in this matter is a clear response to the accusation of lack of neutrality launched against it.

The Iraqi letter seeks a way to nullify the agreement of its representative on the Commission to the demarcation of the Safwan point. The letter justifies that by saying that the representative of Iraq was "tricked contrary to the principles of ethics and good faith". We do not know what good faith or bad faith has to do with the facts, the boundary and the survey lines or how a representative of a State can be tricked in such a situation.

Although the agreement of the representative of Iraq and the Commission was based on the Iraqi letter presented to the British ambassador on 25 June 1940, wherein the Iraqi Government stated that the boundary line lay south of Safwan 1,250 metres from the old customs post, the Iraqi regime tried to renege on the Iraqi letter and the indicators marking the Safwan line contained in it.

This is a blatant contradiction. A letter of a State demarcates the beginning of a boundary line in an official letter in 1940 and now the Minister for Foreign Affairs of the State proceeds to reject and deny that, because any specification regarding boundary demarcation that does not suit the Iraqi regime, whether it be past or present, is rejected by it.

The letter continues its objections to the Commission's decisions and states that these decisions have led to the appropriation of large areas of Iraq's territory uncontested before this date, including its oil resources and the installations established by Iraq in that territory.

The letter deliberately omits any mention of the fact that was demonstrated beyond doubt or dispute by the technical survey operations of the Boundary Demarcation Commission. It was established that over the years Iraq had gone beyond the boundary lines accepted by it in the exchange of letters of 1922, and the Agreed Minutes of 1963 and had violated the border areas by force, encroachment and military aggression, as in the case of its armed attack and encirclement of the Kuwaiti Al-Samitah guardpost in 1973 and the other attacks launched by it on the border areas. Kuwait registered its objection at the time by successive official notes dating back to 1934 and set up those installations to serve as justification in the future for its claim to ownership of that territory.

International legitimacy does not bow to the fait accompli imposed by force. It calls upon the parties to show respect for the treaties they have signed and imposes on the encroaching party the obligation to return to his legitimate boundaries.

XII. The Iraqi letter regards the resolution admitting the State of Kuwait to the League of Arab States as null and void because the Minister for Foreign Affairs of Iraq was absent from the meeting of the Council. The letter claims that a decision admitting a new member to the League of Arab States must be supported unanimously by all members.

Iraq admits in its letter that Kuwait became a member of the League of Arab States and that that was due to a mistake made by Iraq's Minister for Foreign Affairs. How can this be expressly admitted together with a statement that the League decision is null and void?

However, the subsequent conduct of Iraq towards Kuwait confirms that, for approximately three decades, it has been dealing with Iraq as an independent State, on the one hand, and as a State member of the League of Arab States, on the other. This conduct is represented in the various aspects of diplomatic, political, economic, social and cultural interaction.

XIII. The Iraqi letter alleged that "the Kuwaiti authorities themselves acknowledged their trespass" on Iraqi oil wells through His Highness Sheikh Saad al-Abdullah al-Sabah, the Crown Prince and Prime Minister, during a meeting with the Deputy Chairman of the Iraqi Revolution Command Council at Jeddah on 30 July 1990. No such statement was made either at the talks conducted during that meeting or on any other occasion. Kuwait held to the view expressed in the two official letters submitted by the Deputy Prime Minister and Minister for Foreign Affairs to the Secretary-General of the League of Arab States on 18 and 21 July 1990, in reply to the Iraqi letters of 15 and 21 July 1990.

Kuwait affirmed, in front of the Iraqi delegation at the Jeddah meeting, that it was prepared to set up neutral commissions to examine all issues arising between the two parties, including the question of the oil wells. However, the Iraqi side did not reply to the proposal, preferring instead to launch its treacherous surprise attack against Kuwait only hours after the meeting ended.

XIV. In its challenge to the decisions of the Boundary Demarcation Commission, Iraq's letter resorts to that country's consistent practice of reneging on every agreement or commitment into which it has entered and imposing instead its viewpoints and ambitions as facts which must be accepted and complied with by all. Accordingly, it has interpreted the decisions of the Boundary Demarcation Commission, and indeed anything which conflicts with its wishes, as an act of colonialism and an international conspiracy.

By way of example, it rests its claim to Kuwaiti territory and islands in the Gulf not on any agreements which it has concluded or on historically documented boundaries but on its status as a coastal State which must have an outlet to the Gulf. It chooses that this outlet should be located in the territory of its neighbour, Kuwait, and insists that its demand must be translated into reality, regardless of whether that claim is justified or not. It is deliberately ignoring the well-known facts that it already has a 40-kilometre coastline at Al-Faw and that it controls the entire northern shore of Khawr Abdullah (35 kilometres) and Mina al-Bakr, which, following expansion, can now accommodate supertankers.

All nations have aspirations, with some seeking warm-water ports and others desiring areas rich in minerals or other resources. If such aspirations were allowed to become reality through imposition by force, the map of the world would be altered and further successive wars would consume human lives and deprive mankind of the benefits of progress in ensuring increased respect for the rule of law, good-neighbourliness and legitimacy.

Iraq's letter, inspired as it is by covetous fancy, states that its chosen maritime outlet lies in what it refers to as a "small village established some two centuries ago on the banks of the Arabian Gulf under the name of 'Kuwait'". When it refers to Kuwait in this way, it appears to deny the State's existence because of its small population and surface area. If the world were to adopt that approach, many effectively existing nations would disappear from the map. Countries should be measured by their performance and vitality rather than by their size or population.

XV. Iraq claims that it is not bound by the Agreed Minutes of 1963 because its legislative authority did not ratify them. Our answer to this assertion is as follows:

1. The question of whether an agreement is subject to ratification or not depends on the intentions of the parties concerned, which in turn depend on the circumstances, context and subject of the agreement.

Benheim (an expert on international law) says that, in the case of a protocol, a statement or an exchange of letters, there is no requirement for ratification - unless specifically stated otherwise - if any of the aforementioned agreements represents no more than the addition of a point of minor significance or the registration of an agreement between the two parties concerning the interpretation of an item in the original treaty.

As is well known, the Agreed Minutes do not abolish any boundaries or establish others in their place. With respect to the boundary issue, they simply record an acknowledgement of boundaries on which agreement had already been reached.

If we suppose for the sake of argument that ratification of the agreement was required, then the responsibility for failure to comply with the conditions for ratification rests with the defaulting State rather than with the other party to the agreement. It is the defaulting State which must bear the consequences of the unratified agreement. To claim otherwise would have the effect of entitling other States to interfere in the internal affairs of nations on the grounds that they were testing the agreement and verifying the soundness of ratification procedures. This is not acceptable in international practice.

2. It was the intention of the two contracting parties, Iraq and Kuwait, that the Minutes should be implemented immediately following their signature. This is indicated by the fact that most items of the Minutes were indeed implemented, such as recognition, the exchange of diplomatic representation,

the establishment of a commercial and economic agreement, etc. The Kuwaiti side provided financial assistance amounting to 30 million dinars in accordance with the agreement.

3. Other agreements with Iraq (meaning those on matters other than the boundary) specifically stated that ratification was required, including, for example, the protocol on bilateral cooperation between Iraq and Kuwait. This shows that the practice established between the two countries requires the incorporation of a specific provision concerning ratification if the intentions of the two parties so require. The failure to incorporate such a provision into the documents concerning the boundary is a strong indication that such ratification was not required.

4. The Minutes were registered with the Secretariat of the United Nations on 10 January 1964 without any objection from either of the two States to the Minutes' coming into force on the grounds of non-ratification.

5. The Iraqi regime's objection to and constant violations of this agreement are nothing new. The regime has been in the habit of breaking all international agreements and treaties which are incompatible with its expansionist designs. Before the beginning of its war with Iran, it repudiated the Algiers Agreement of 1975 with Iran concerning the Shatt al-Arab and then announced its recognition of the Agreement once again after its invasion of Kuwait. The very fact of its invasion of Kuwait, thereby breaking and violating related Arab and international pacts, is in itself irrefutable evidence of the regime's inclinations and behaviour, namely, a failure to respect any law or regional or international treaty. Accordingly, and particularly with regard to this issue, Kuwait is firmly convinced that the will of the international community is the only appropriate instrument which must be applied to such a regime to enforce its respect for international laws and treaties.

XVI. The Iraqi letter attempted to draw the United Nations and the Security Council into labyrinths of allegations about Kuwait's historical existence which have already been answered and investigated from documented scholarly sources and in respect of which evidence, maps and studies showing the pursuit of this historical illusion to be a waste of time have already been published. Kuwait is a land, a people and a real historical State which is not susceptible to denial. This practice of alleging historical rights is entirely incompatible with the fundamental principles established under international law whereby the boundaries between neighbouring States which define the territory of each individual State in accordance with the boundaries drawn prior to their independence are considered to be binding. This principle was applied between Latin American States and was confirmed by the leaders of the African continent at the African summit meeting in 1964 for the purpose of settling border issues and disputes.

The Security Council adopted these principles when it endorsed the boundary agreed to by Kuwait and Iraq in 1932 and 1963, in conformity with studies on international law which rule out any repudiation of boundary agreements on the grounds that they have not been ratified.

Meanwhile, an objective scholarly study of the question of the boundary between Kuwait and Iraq always reaches the same conclusions, namely, those on the basis of which the world decided to support Kuwait and its cause.

The reason for this support is clear. The boundaries claimed by Kuwait are recorded in documents, maps and well-known internationally documented agreements which are not denied or contested by anyone other than those who espouse contrariness and falsify attested facts.

The history of these documents goes back to the time before Iraq's emergence as an independent State. They are not fabricated for the purpose either of inventing evidence or of claiming spurious rights raised when the border dispute erupted; they are firm, documented historical facts.

Any neutral historian will recognize that for almost three centuries (1709-1992) Kuwait - this land overlooking the north shore of the Arabian Gulf - has continued to exist as a distinct entity, maintaining its independence under all circumstances and despite all changes. The relationship of this distinct entity to the Ottoman State, whose influence extended throughout Iraqi territory, was clear: it was confined to the general Islamic ties which linked Islamic lands under the Ottoman caliphate. There was no Ottoman presence in any part of Kuwait's territory, neither was there any form of political subordination. The relationship was a religious one, did not affect independence and did not detract from the Kuwaiti people's sovereignty over their territory.

This distinct and independent nature was demonstrated by the Kuwaiti people's self-reliance in defending themselves against tribal attacks and raids on Kuwait without assistance from the Ottoman authorites in Basra or Baghdad. They themselves - without help from anyone - built the walls of Kuwait in 1760 to protect their city.

Further evidence may be seen in the fact that Kuwait served as a refuge for rebels against the Ottoman authorities in Baghdad. Both Sheikh Thuwayni, the Sheikh of Muntafaq, and Mustafa Agha, the Governor of Basra, took refuge with Sheikh Abdullah al-Sabah, the Ruler of Kuwait (1762-1815) after rebelling against Suleiman Pasha, the Vali of Baghdad. Sheikh Abdullah refused to surrender them, despite a threat to attack Kuwait and force it to do so.

Kuwait's lack of subordination to the Ottomans is demonstrated by the fact that the Ruler of Kuwait permitted the British Agency of the British East India Company to be transferred from Basra to Kuwait (1793-1795) following a dispute with the Ottoman authorities. This could not have happened if Kuwait had owed allegiance or been subordinate to the Ottoman State.

If we set aside the evidence, testimonies and reports of travellers and politicians to consider instead the position of Kuwait in atlases, we find even stronger evidence of Kuwait as a distinct entity, particularly in two nineteenth-century maps, as follows:

1. The map of Carl Ritter, a German scholar and one of the founders of modern geography. Kuwait is included on the German-language map of the Arabian peninsula published in 1867 on the authority of his book Erdkunde (Geography), which appeared in several dozen volumes from 1818 onwards.

Kuwait is referred to as "Kueit or Korein" within a district encompassing its present location and including Warbah, Bubiyan and parts of southern Iraq. The map was printed in Berlin and is kept at the Cambridge University Library (Map No. C.336.58.1).

2. The map of the Arabian peninsula is contained in the journal of Arabian travel compiled by W. G. Palgrave in 1862-1863. This shows Kuwait in a colour marking it as completely independent from the other political entities in the region, meaning the Ottoman State to the north and Najd in the south. It is to be noted that the northern boundaries of Kuwait include Warbah and Bubiyan, as well as the west bank of the southern part of the Shatt al-Arab, including Umm Qasr and most of Al-Faw.

The agreement of 1913 between the Ottoman State and Britain contains no ruling whatsoever that Kuwait should be subordinate to the province of Basra, as repeatedly asserted in the Iraqi letter. Article 2 of the agreement specifies that the Sheikh of Kuwait shall exercise independent authority in his territory and that the Ottoman Government shall refrain from interfering in Kuwait's affairs, including the issue of inheritance, as well as from any other administrative activity and from any occupation or military action in the districts belonging to Kuwait.

Nevertheless, the agreement detached various parts of Kuwait's territory in Iraq's favour, in accordance with a request made by Sheikh Mubarak al-Sabah on the basis of documents and historical facts.

Iraq itself recognized these established facts and affirmed them on two occasions when it clearly recognized the State of Kuwait and its boundaries, in 1962 and 1963 respectively. The Annual Report of the Republic of Iraq for 1988 bears witness to this fact by way both of the information it includes on Kuwait as a neighbouring fraternal State and of the map accompanying that information, which locates the Kuwait-Iraq boundary very close to where it was eventually placed by the United Nations Boundary Demarcation Commission.

It is to be hoped that this review will serve to disperse all fancy and delusion and to establish the foundations of the truth, namely, that the administrative entity and political borders of Kuwait are a historical fact the features of which were clear over half a century before Iraq's independence.

XVII. Despite the lesson received by the Iraqi regime when it asserted that it was undertaking an invasion in response to appeals on the part of the Kuwaiti people, inasmuch as what it found was a people united behind its leadership, opposing the aggressive regime in a resistance, witnessed by the entire world, that came into being with considerable self-sacrifice - for

indeed, the documents left behind by the invading forces at liberation showed the extent of the terror and consternation from which those invading Iraqi forces suffered on experiencing the resistance of the Kuwaitis - despite all that, this Iraqi letter goes back half a century, in the illusion that one can distort history and twist the facts in order to challenge Kuwaiti national unity by asserting that at the time of the first Legislative Council, during the reign of Sheikh Ahmad al-Jaber, the Council members called for the unification of Kuwait with Iraq! It also asserts that the free youth of Kuwait asked the Iraqi Government for assistance for that purpose - it is the same theme, being repeated half a century later.

It will suffice, in order for us to refute these claims, to go back to the letter presented by those youths, who met with the Amir of Kuwait, calling for a number of reforms and the constitution of a Legislative Council:

> "The course of events and the present conditions of the country have encouraged the sincere among your subjects to turn to you with earnest advice in their desire to come to an understanding with you concerning what may be a beneficial approach and a proper manner of warding off adversities from themselves and from you, preserving the existence of our country and safeguarding our independence, their sole aim being to remove the causes of complaint and to effect reforms."

This letter bespeaks only love and affection and the exchange of sincere advice between the shepherd and his flock, stressing the independence of Kuwait and the preservation of its existence.

At the close of this review of the statements made by the Iraqi Minister for Foreign Affairs in his letter concerning the conclusions of the Boundary Demarcation Commission, we are firmly convinced that his letter is nothing other than a link in an endless chain of attempts to create obstacles to a definitive conclusion of the boundary issue between Iraq and Kuwait.

Iraq is seeking to remove the problem from its present sphere, governed by international legitimacy, to the sphere of bilateral relations, in which Kuwait has, throughout its life, held out its hand with love and cooperation, offering dialogue and assistance in an absolute commitment to brotherliness, neighbourly rights, historical ties and shared destiny to its neighbour and brother; yet the reply was a hostile bullet pointed at its heart and aggression aimed at its existence and its land and the taking of lives and property.

The Iraqi regime believes that by once again raising a clamour in the news it can hamper the legal process and thwart the countries of the world in their insistence on restoring to the region security, stability and secure boundaries which the Security Council guarantees to protect; but it is time for the Iraqi regime to give up this belief, to face reality and to cooperate with its neighbours on a principled basis in a meeting between equals.

It would have sufficed, in order to refute this letter with all its particulars, to call attention to the clear statement which, after all the disastrous events for which it was to blame, it made in its letter, concerning its refusal to accept peaceful coexistence with its neighbours to the effect that under no circumstances would Iraq accept any formula relating to demarcation, British or otherwise.

Yet, in deference to Arab and world public opinion, against which the letter of the Iraqi regime has been published, we considered it our duty to provide the facts together with the documents presenting the correct information concerning them, hoping for a return to reason and truth and placing our trust in God.

(Signed) Sheikh Salem Sabah al-Salem AL-SABAH
Deputy Prime Minister and
Minister for Foreign Affairs